

BEFORE THE OFFICE OF THE COMMISSIONER OF RAILROADS

STATE OF WISCONSIN

Petition of the Wisconsin Department of Transportation for the Alteration and Exemption of the Public Crossings of the Sault Ste. Marie Bridge Co. Tracks with Cleveland Avenue and Hall Avenue in the City of Marinette, Marinette County

9148-RX-17

FINAL DECISION

By letter dated March 2, 2004, the Wisconsin Department of Transportation (DOT) filed a petition with the Office of the Commissioner of Railroads (OCR) under §§195.28 and 195.29, Stats., for the alteration of public crossings of the Sault Ste. Marie Bridge Co. (SSAM) tracks with Cleveland Avenue (crossing no. 181 590W / MP 47.73) and Hall Avenue (crossing no. 181 595F / MP 49.01) in the City of Marinette, Marinette County.

DOT also petitioned for the exemption of vehicles specified in §346.45, Stats., from the requirement to stop at the Cleveland Avenue and the Hall Avenue crossings of the SSAM tracks. That section requires certain specified vehicles, such as fuel trucks and school buses, to stop at highway/rail crossings unless posted with an exempt sign.

Pursuant to due notice, public hearing was held in this matter on April 21, 2004 in Marinette, Wisconsin with hearing examiner Douglas S. Wood presiding.

On May 4, 2004, the hearing examiner issued a proposed decision. On May 10, 2004 the DOT filed comments supporting the proposed decision. DOT did state that it would be more accurate to state that the City proposes to add an additional lane. DOT also requested that Paragraph 16 of the Order be amended to clarify that the Escanaba & Lake Superior Railroad Co. shall bear 100% of the cost to repair the Marinette Avenue crossing. The Commissioner agrees and amends the Findings and Order accordingly.

With these changes, the Commissioner adopts the proposed decision as final.

Appearances:

Parties

Wisconsin Department of Transportation, Petitioner
by
Mark Morrison, PE
Grade Crossing Safety Engineer
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Madison, Wisconsin 53707-7914

In Support:

City of Marinette
by
Brian Miller, Director of Public Works/City Engineer
1905 Hall Avenue
Marinette, WI 54143

As Interest May Appear:

Sault Ste. Marie Bridge Co.
by
Terry Lee, PE
Manager Engineering Services
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Stevens Point, Wisconsin 54481

Findings of Fact

THE COMMISSIONER FINDS:

The DOT plans to reconstruct USH 41 from just south of Cleveland Avenue through Marinette to the Interstate Bridge into Michigan during the 2004 and 2005 construction seasons. The project will impact four crossings, two with the Sault Ste. Marie Bridge Company (Cleveland Avenue and Hall Avenue) and two with the Escanaba and Lake Superior Railroad Company (E&LS), [Marinette Avenue (388 578R) and Hall Avenue (388 576C)]. The E&LS crossings of Marinette Avenue and Hall Avenue will be used as part of a detour route, but the warning devices and crossing surfaces at both crossings have been previously upgraded, except that the Marinette Avenue crossing of the E&LS needs to be repaired due to failure of some concrete panels.

The project will be let July 13, 2004. Construction is scheduled to begin in August of 2004 and conclude November of 2005. Due to the complexity of the project, the project will be constructed in stages.

The Wisconsin Department of Transportation and the City of Marinette propose to alter the public crossings of the Sault Ste. Marie Bridge Co. tracks with Cleveland Avenue and Hall Avenue.

DOT also proposes that the OCR exempt vehicles specified in §346.45, Stats., from the requirement to stop at the Cleveland Avenue and Hall Avenue crossings of the SSAM tracks. That section requires certain specified vehicles, such as fuel trucks and school buses, to stop at highway/rail crossings unless posted with an exempt sign.

Cleveland Avenue

As part of the project in the fall of 2004, the City proposes to add an additional lane for westbound traffic on Cleveland Avenue, which will necessitate widening the crossing surface to the north and removing the existing mast mounted automatic flashing lights and gate in the northeast quadrant and replacing them with a new cantilevered signal while reusing the gate mechanism and bell.

Cleveland Avenue generally runs in an east-west direction and intersects the tracks at a 56° angle left-hand forward. USH 41 runs parallel with the tracks in this area. Cleveland Avenue intersects USH 41 about 60' west of the crossing. That intersection is controlled by traffic signals, which are interconnected with the crossing signals

Through the railroad crossing, Cleveland Avenue will be widened 6' along the north side of the roadway, thereby expanding to two lanes for westbound traffic. The existing single lane will become a dedicated left-turn lane. The resulting right lane will become a combined right-turn and through lane. Additionally, curb, gutter and sidewalk will be installed. The DOT proposes that the existing asphalt crossing surface be replaced with a concrete panel crossing. The crossing consists of one mainline track.

The approach grades along Cleveland Avenue at the railroad crossing are approximately +2% for the westerly approach and +0.5% for the easterly approach. The completed project will maintain approximately the same approach grades.

Cleveland Avenue carried 6700 ADT (average daily traffic) in 2001. The speed limit is 35 mph. The railroad currently operates 6 to 8 through freight trains and 4 switch trains per day at the Cleveland Avenue crossing. Through freight trains operate at a maximum speed of 25 miles per hour.

The exposure factor at this crossing is 67,000 to 80,400. The exposure factor equals the product of the number of trains per day and the number of highway vehicles per day, which yields a numerical value for the potential conflicts each day at the crossing.

Seven train-vehicle accidents have occurred at this crossing since 1973. The accidents occurred in 1975, 1978, 1979, 1986, 1987, 1995, and 1999.

An accident prediction model developed by the Federal Railroad Administration (FRA) allows a projection of expected future accidents based on a number of factors including train volume and speed, highway volume and accident history. The model can be used to compare the expected accident rates given different warning devices. The predicted rate, however, is only one tool for evaluating safety improvements and does not replace sound judgment based on a consideration of all known factors.

The Cleveland Avenue crossing has a predicted accident rate of 0.09 accidents per year, or one accident every 11 years, with the present warning devices.

For warning devices, the crossing currently has mast mounted 12" LED automatic flashing lights with gates, an electronic bell, and constant warning time circuitry with preemption of the nearby traffic signals. These devices were installed in 2002 as part of the OCR's 2001 program (OCR Docket 9148-RX-7).

The existing signal and gate located within the southwest quadrant will remain in its current location. In order to adequately protect public safety, the existing signal and gate in the northeast quadrant need to be relocated and replaced with a new cantilevered signal while reusing the gate mechanism and bell. This work is necessary as a result of the Cleveland Avenue roadway widening. In addition to the signal work, advance railroad warning signs, pavement markings, and dynamic envelope pavement markings will be installed. Because the crossing is located within 200' of a signalized intersection, the traffic signals at the USH 41/Cleveland Avenue intersection will continue to be interconnected with preemption. The existing warning devices will be adequate until such time as the new warning devices are installed.

Cleveland Avenue Traffic Signal Preemption

The SSAM at-grade crossing will be located 38' east of the proposed eastern USH 41 curb line. The anticipated queue length in 2025 is 125' on the east approach. The stop bar and traffic signal for that approach will be installed east of the crossing. Consequently, the crossing will legally be within the USH 41/Cleveland Avenue intersection. Because of the potential for vehicles to pull ahead of the stop bar and queue over the crossing, railroad preemption needs to be retained.

The USH 41 northbound right turn lane will receive a 'No Right Turn' sign during preemption. This sign will be a blank out sign that will be tied into the intersection signal phasing. DOT proposes to use a fiber optic electronic sign that will only light up during preemption. The blank out sign may be replaced at a future date with red/yellow/green arrows depending on future traffic. USH 41 southbound left-turn lane will receive a red left-turn arrow during preemption. DOT requested that the order allow the options of installing either turn arrows or blank out signs at this intersection.

DOT stated that the advance preemption time needed is 40 seconds. That calculation assumes a worse case green phase needing to be terminated prior to initiating the green clearance time. The order does not specify the amount of advance preemption. The highway authority is responsible for informing the railroad of the amount of advance preemption time needed.

Cleveland Avenue Timing

The project work to be completed in and around the Cleveland Avenue crossing will take place during Stage 1, which will run from August 2, 2004 to November 1, 2004. During this time frame, Cleveland Avenue will be closed to traffic. DOT proposes that the SSAM perform the crossing work anytime between August 2, 2004 and October 22, 2004.

Cleveland Avenue Cost-sharing

The existing timber and asphalt-crossing surface is 66' in length. The new crossing surface will be 94' in length. Because this crossing is within the limits of a state trunk highway project, DOT will fund 85% of the existing crossing length and 100% of the widening, which results in project funding of 89% with SSAM being responsible for 11%.

Cleveland Avenue Exemption

The DOT and the City propose to exempt the Cleveland Avenue crossing from the stopping requirement of §346.45 Wis. Stats. That section requires certain specified vehicles, such as passenger buses and fuel trucks, to stop at all railroad crossings unless posted with an exempt sign.

Cleveland Avenue traffic consists of an estimated 4% truck traffic. Typically, about 10% of trucks are required to stop at non-exempt crossings, which would be about 27 per day for the Cleveland Avenue crossing. The railroad opposed the exemption.

Exempting these vehicles from the stopping requirement of §346.45, Stats., will promote the public interest, particularly in light of public safety. Cleveland Avenue carries a relatively large volume of vehicular traffic, which means there would be frequent conflicts between vehicles required to stop and all other highway traffic. The crossing will continue to have automatic flashing lights and gates for warning devices.

In addition, because the crossing signals and traffic signals are interconnected not exempting the crossing would create a hazard if, for example, a fuel truck stopped during the 'green' clear-out phase. Following vehicles would not expect the fuel truck to stop in that situation and might rear-end the truck. Moreover, even if vehicle-vehicle accidents did not occur, the stopping of school buses or fuel trucks during the 'green' clear-out phase would disrupt the functioning of the traffic signal preemption by reducing the number of vehicles that could clear the area.

Last, since the crossing will be within a legally defined intersection that will be equipped with traffic signals, the crossing will actually be exempt by operation of the state statute. Section 346.45 (3) provides that: "A stop need not be made at: ... (b) A railroad grade crossing when an official traffic control signal permits traffic to proceed."

The order requires the City of Marinette to install exempt signs [Sign R15-3 in the Manual on Uniform Traffic Control Devices (MUTCD)] on the vertical signal posts on each approach. The order also requires the City of Marinette to install yellow-background advance warning exempt signs on the advance warning signs on the approaches to the crossing.

Hall Avenue

As part of the project in the fall of 2004, DOT proposes to add a left turn lane for westbound traffic on Hall Avenue at the newly reconstructed Hattie Street intersection, which will necessitate widening the Hall Avenue (SSAM) crossing surface to the south and relocating the existing cantilevered automatic flashing lights and gate in the southwest quadrant. The SSAM previously installed a concrete panel crossing at Hall Avenue in 1999 under an agreement with DOT. The existing concrete panel crossing surface is wide enough for the proposed widened crossing through the roadway. The crossing surface will need to be widened to the south in the area of the proposed relocated sidewalk.

In advance of the highway project, the City of Marinette is constructing a new 4-legged intersection of Hattie Street with Hall Avenue. The City plans to install traffic signals at that intersection, which is about 130' west of the Hall Avenue crossing of the SSAM tracks. Because of the proximity of the intersection and the expected design year queue lengths (290'), it is necessary to install an interconnection between the crossing signals and the traffic signals with advance preemption of the traffic signals by train movements in order to adequately protect public safety. The OCR previously issued an Interim Order for the installation of circuitry for advance preemption.

Hall Avenue runs in an east-west direction and intersects the tracks at an 85° angle left-hand forward. The crossing consists of one mainline track. The existing typical roadway section along the approaches to the crossing consists of a 4-lane (52' clear width) urban section with curb and gutter and sidewalk. Reconstructed Hall Avenue will have a 50' clear roadway width. Though the Hall Avenue typical section width will be narrowed 2', the crossing will need to be widened to accommodate a left-turn lane that will be constructed for the new Hattie Street extension. In addition, the sidewalk will be re-routed to go around the warning device.

Since widening of the Hall Avenue crossing will take place in the vicinity of the proposed sidewalk, DOT proposes the use of timber and asphalt, rail-seal and asphalt, or the smaller field panel concrete crossings that utilize standard ties rather than concrete paneled sidewalk crossing with 10' crossties.

An existing railroad pole and battery box, located at the southeast quadrant of the crossing, will need to be relocated or removed at the time the crossing work is completed.

The approach grades to the crossing along Hall Avenue are approximately -0.5% for the westerly approach and -0.5% for the easterly approach. The proposed profile along Hall Avenue will be a -0.44% grade through the crossing.

Hall Avenue carried 20,100 ADT in 2001. The DOT projects Hall Avenue will carry 25,500 ADT in the design year of 2025. The speed limit is 25 mph.

The railroad currently operates 6 to 8 through train movements per day over the Hall Avenue crossing location at a maximum timetable speed of 25 mph. In addition, the Escanaba & Lake Superior Railroad Co. operates 3 train movements per day over the crossing.

The exposure factor at this crossing is about 181,000 to 221,000. The exposure factor at this crossing will exceed 250,000 in the design year assuming 10 train movements per day.

Twelve train-vehicle accidents have occurred at this crossing since 1973. The accidents occurred in 1975, 1976 (2), 1977, 1980, 1981, 1983, 1985, 1986, 1988, 1989, and 1993.

The Hall Avenue crossing has a predicted accident rate of 0.063 accidents per year, or one accident every 15.8 years, with the present warning devices.

The Hall Avenue crossing is currently equipped with cantilevered 12" LED automatic flashing lights with gates, an electronic bell, and constant warning time circuitry. These warning devices were installed in 2002 as part of the OCR's 2001 program (OCR Docket 9148-RX-5). Additionally, advance railroad warning signs and pavement markings exist.

The existing cantilevered signal and gate located within the northeast quadrant will remain in its current location. In order to adequately protect public safety, the existing signal and gate in the southwest quadrant will need to be relocated. The project will reinstall advance railroad warning signs and pavement markings. Because the crossing is located within 200 feet of a signalized intersection, the traffic signals at the Hall Avenue/Hattie Street intersection will be interconnected with preemption. The existing Hall Avenue and Hattie Street intersection is not currently signalized, but will have signals installed as a part of the roadway project. As noted above, the OCR has already issued an order for the interconnection and advance preemption of the traffic signals by the crossing signals.

Hall Avenue Timing and Staging

The project work to be completed in and around the Hall Avenue crossing will take place in various stages. The work will commence with Stage 1 on August 9, 2004 with the reconstruction of the north half of the Hattie Street intersection. Stage 1 will be completed by September 24, 2004. The next stage, Stage 3, will run from March 28, 2005 to July 12, 2005. The next stage, Stage 5, will run from July 12, 2005 to September 8, 2005. The final Stage, Stage 6, will run from September 6, 2005 to November 4, 2005.

During Stage 1 (August 9, 2004 to September 24, 2004) the existing Hall Avenue southbound lanes will be closed with two-way traffic shifted to the existing northbound lanes, while Hattie Street is being reconstructed in preparation for the detour. The DOT proposes that the existing gates be removed during this stage because two-way traffic will be switched to the northbound lanes and the gate arm is long enough it would cover both lanes of traffic, thus creating the potential for cars to be trapped on the crossing. After this initial phase, the roadway at the crossing will be returned to four lanes of traffic. After Stage 1 is complete, the gates would be reinstalled.

During Stage 3 (March 28, 2005 to July 12, 2005) traffic will be shifted to the existing Hall Avenue southbound lanes to accommodate construction of the two northbound lanes. DOT again proposes to remove the existing gates for the same reasons as described above in Stage 1. The DOT proposes that the SSAM widen the crossing and replace any concrete panels that need to be replaced and relocate the existing cantilevered flashing light signal and gate during a one-week time frame between July 6, 2005 and July 12, 2005, so that the use of temporary railroad signals may be avoided. To facilitate this work Hall Avenue will be closed and local traffic on Hall Avenue will be detoured along local streets.

During Stage 5 (July 12, 2005 to September 8, 2005) traffic will be moved to the completed northbound travel lanes. Again the DOT proposes that the existing gates be removed during this stage.

Alternatively, in order to have gates at the crossing during Stages 1, 2, and 3 the SSAM could replace the existing gate arms with a longer gate arm on one side and a shorter gate arm on the other side. The long gate arm would need to be about 40' in length, which can be problematic in windy conditions. The longer gate arm would extend across the lanes under construction and one of open lanes. Using the shorter gate arm on the other side would prevent both lanes from being blocked (which the existing gates arms would do). In order to implement this alternate method, the railroad would have to remove the existing gates and install the temporary short and long gate arms in August 2004, reinstall the existing gate arms at the conclusion of stage 1 (September 24, 2004), remove the existing gates and install the temporary short and long gate arms in March 2005, switch the temporary short and long gate arms to cover the other roadway in July 2005, and reinstall the existing gate arms at the conclusion of Stage 5 (September 2005).

It is reasonable, given the complexity of the alternative, to remove the gate arms during Stages 1, 3, and 5.

Hall Avenue Funding

DOT will fund 100% of the costs associated with relocating the existing cantilevered flashing light signal and gate, widening of the existing crossing surface, and any adjustments of the existing signals and gates required during construction. SSAM will be responsible for 100% of the costs associated with maintaining the existing crossing surface. The existing concrete panel-crossing surface is 75' in length and will need to be widened approximately 12'.

Although it is not anticipated that temporary railroad signals will be required, if during construction it is determined they are required, any costs associated with the temporary signals will be 100% project funded.

Under contract between the City of Marinette and SSAM, the city will fund 100% of the cost to install the preemption for the temporary signals.

Hall Avenue Exemption

The DOT and the City propose to exempt the Hall Avenue crossing from the stopping requirement of §346.45 Wis. Stats. That section requires certain specified vehicles, such as passenger buses and fuel trucks, to stop at all railroad crossings unless posted with an exempt sign.

Hall Avenue traffic consists of 8.7% truck traffic. Typically, about 10% of trucks are required to stop at non-exempt crossings, which would be about 175 per day for the Hall Avenue crossing.

Although the Hall Avenue crossing will not be within the signalized traffic intersection (as will be the case at Cleveland Avenue), exempting the crossing will promote public safety for similar reasons as at Cleveland Avenue. The Hattie Street intersection will be about 130' west of the crossing. It is anticipated that traffic will queue over the crossing. Thus, it is vital that the advance preemption work properly. Requiring school buses or fuel trucks to stop at the crossing will interfere with the clearing of the crossing upon the approach of a train and increase the risk of a train-vehicle accident. In addition, because the crossing signals and traffic signals will be interconnected, not exempting the crossing would create a hazard if, for example, a fuel truck stopped during the 'green' clear-out phase. Following vehicles would not expect the fuel truck to stop in that situation and might rear-end the truck.

Exempting these vehicles from the stopping requirement of §346.45, Stats., will promote the public interest, particularly in light of public safety. Train traffic is light and low speed. Hall Avenue will carry a large volume of vehicular traffic, which means there would be frequent conflicts between vehicles required to stop and all other highway traffic. The crossing will have automatic flashing lights and gates for warning devices.

The order requires the City of Marinette to install exempt signs on the vertical signal posts on each approach. The order also requires the City of Marinette to install yellow-background advance warning exempt signs on the advance warning signs on the approaches to the crossing.

Marinette Avenue (USH 41) Crossing – Escanaba & Lake Superior Railroad Co.

The Escanaba & Lake Superior Railroad Co. installed the existing concrete panel-crossing surface under an earlier DOT project in anticipation of this project. Due to movement of some of the concrete panels, the E&LS needs to rehabilitate the crossing by removing the panels, recompacting the ballast, and then reinstalling or replacing the panels. Railroads are required to maintain at-grade crossings at their own expense.

The project work to be completed in and around the Marinette Avenue crossing will take place during Stage 2, which will run from November 1, 2004 to May 10, 2005 and Stage 4, which will run from May 10, 2005 to August 9, 2005.

DOT proposes that the E&LS perform the required maintenance on the existing concrete panel crossing during a one-week time frame between April 18, 2005 and April 24, 2005. To facilitate this work, the complete crossing will be closed and local traffic on Marinette Avenue will be detoured along local streets.

E&LS will be responsible for 100% of the costs associated with maintaining the existing crossing surface.

Ultimate Conclusions on the Issues

THE COMMISSIONER CONCLUDES:

1. That the alteration of the crossing at-grade of Cleveland Avenue with the Sault Ste. Marie Bridge Co. tracks in accordance with the design plans of the Wisconsin Department of Transportation and the City of Marinette in the City of Marinette, Marinette County will promote public safety and convenience.

2. That the alteration of the crossing at-grade of Hall Avenue with the Sault Ste. Marie Bridge Co. tracks in accordance with the design plans of the Wisconsin Department of Transportation and the City of Marinette in the City of Marinette, Marinette County will promote public safety and convenience.

3. That in order to adequately protect and promote public safety, it is necessary to install and maintain a new cantilevered 12" LED automatic flashing light signals in the northeast quadrant and to relocate the existing gate mechanism at the Cleveland Avenue crossing.

4. That in order to adequately protect and promote public safety, it is necessary to relocate the existing signal and gate in the southwest quadrant at the Hall Avenue crossing.

5. That it would promote the public interest to exempt the crossing of Cleveland Avenue with the tracks of the Sault Ste. Marie Bridge Co. from the stopping requirement of §346.45, Wis. Stats.

6. That it would promote the public interest to exempt the crossing of Hall Avenue (USH 41) with the tracks of the Sault Ste. Marie Bridge Co. from the stopping requirement of §346.45, Wis. Stats.

7. That it is reasonable that the Sault Ste. Marie Bridge Co. bear 11% of the cost for the Cleveland Avenue crossing construction.

8. That it is reasonable that the project pay 100% of the costs at Hall Avenue associated with relocating the existing cantilevered flashing light signal and gate, widening of the existing crossing surface, and any adjustments of the existing signals and gates required during construction and for the Sault Ste. Marie Bridge Co. to pay 100% of the costs associated with maintaining the existing crossing surface.

9. That the crossing at-grade of Marinette Avenue with the Escanaba & Lake

Superior Railroad Co. tracks is in need of repair.

Conclusion of Law

THE COMMISSIONER CONCLUDES:

That the jurisdiction of the Office of the Commissioner of Railroads under §§86.13, 195.28, 195.285 and 195.29, Stats., extends to this matter. Accordingly, the Office enters an order consistent with the findings of fact.

Order

THE COMMISSIONER ORDERS:

1. That the **Sault Ste. Marie Bridge Co.** shall install and maintain a concrete-panel crossing at-grade of **Cleveland Avenue** with its tracks in accordance with the design plans of the Wisconsin Department of Transportation and the City of Marinette in the City of Marinette, Marinette County between **August 2, 2004 and October 22, 2004** (Crossing No. 181 590W / MP 47.73).

2. That the **Sault Ste. Marie Bridge Co.** shall install and maintain a crossing at-grade of **Hall Avenue (USH 41)** with its tracks in accordance with the design plans of the Wisconsin Department of Transportation and the City of Marinette in the City of Marinette, Marinette County between **July 6 and July 12, 2005** (Crossing No. 181 595F / MP 49.01).

3. That the **Sault Ste. Marie Bridge Co.** shall install and maintain a new cantilevered 12" LED automatic flashing light signal in the northeast quadrant and relocate the existing gate mechanism and maintain the constant warning time circuitry and other appropriate appurtenances in accordance with such plans as are filed with and approved by the Office of the Commissioner of Railroads at the crossing of its tracks with **Cleveland Avenue** at-grade in the City of Marinette, Marinette County between **August 2, 2004 and October 22, 2004** (Crossing No. 181 590W / MP 47.73). The **Sault Ste. Marie Bridge Co.** shall maintain the existing interconnection that provides for the advance preemption of the traffic signals at USH 41 (as determined by the **City of Marinette**). The **Wisconsin Department of Transportation and the City of Marinette** may install either turn arrows or blank out signs to control movements during the preemption of the traffic signals at the USH 41/Cleveland Avenue intersection.

4. That the **Sault Ste. Marie Bridge Co.** shall relocate the existing cantilevered signals and gate in the southwest quadrant in accordance with such plans as are filed with and approved by the Office of the Commissioner of Railroads at the crossing of its tracks with **Hall Avenue (USH 41)** at-grade in the City of Marinette, Marinette County between **July 6 and July 12, 2005** (Crossing No. 181 595F / MP 49.01).

5. That the **Sault Ste. Marie Bridge Co.** shall temporarily remove the existing gates at the crossing of its tracks with **Hall Avenue (USH 41)** at-grade in the City of

Marinette, Marinette County on **August 9, 2004**. The **Sault Ste. Marie Bridge Co.** shall reinstall the gate arms at the conclusion of Stage 1. The **Wisconsin Department of Transportation** shall give timely notice to the Sault Ste. Marie Bridge Co. of the date upon which Stage 1 will conclude (Crossing No. 181 595F / MP 49.01).

6. That the **Sault Ste. Marie Bridge Co.** shall temporarily remove the existing gates at the crossing of its tracks with **Hall Avenue (USH 41)** at-grade in the City of Marinette, Marinette County on **March 28, 2005**. The **Sault Ste. Marie Bridge Co.** shall reinstall the gate arms at the conclusion of Stage 5. The **Wisconsin Department of Transportation** shall give timely notice to the Sault Ste. Marie Bridge Co. of the date upon which Stage 5 will conclude (Crossing No. 181 595F / MP 49.01).

7. That the **Sault Ste. Marie Bridge Co.** shall submit to the Office of the Commissioner of Railroads signal and circuit plans with the cost estimate of its proposed installation and upon completion of the signal project, a detailed statement of the actual cost to the Office and to the Wisconsin Department of Transportation.

8. That the signal installation work herein ordered shall not begin until the district office of the **Wisconsin Department of Transportation** informs the railroad that they may start such work and such start notice will not be issued until appropriate federal aid or other funding arrangements have been assured. The cost of the new project initiated before the start notice will not be reimbursed with public funds and shall be the responsibility of the railroad.

9. That the **Sault Ste. Marie Bridge Co.** shall relocate or remove the existing railroad pole and battery box located at the southeast quadrant of the **Hall Avenue (USH 41)** crossing by **March 28, 2005**.

10. That the **City of Marinette** shall install and maintain exempt signs (Sign R15-3 in the MUTCD) on the signal masts on each approach to the crossing of **Cleveland Avenue** with the Sault Ste. Marie Bridge Co. tracks in the City of Marinette, Marinette County by **November 1, 2004**.

11. The **City of Marinette** shall also install and maintain yellow-background advance warning exempt signs (Sign W10-1a in the MUTCD) on the advance warning signs in advance of the **Cleveland Avenue** crossing by **November 1, 2004**.

12. That the **City of Marinette** shall install and maintain exempt signs (Sign R15-3 in the MUTCD) on the signal masts on each approach to the crossing of **Hall Avenue (USH 41)** with the Sault Ste. Marie Bridge Co. tracks in the City of Marinette, Marinette County by **August 9, 2004**.

13. The **City of Marinette** shall also install and maintain yellow-background advance warning exempt signs (Sign W10-1a in the MUTCD) on the advance warning signs by **August 9, 2004**.

14. That the **Sault Ste. Marie Bridge Co.** shall bear 11% of the cost of the Cleveland Avenue crossing construction. The project shall bear the remaining costs, except for any cost assessed to the railroad pursuant to §195.60, Stats., for the investigation of this matter by the Office. The railroad shall not pass on those assessment costs either directly or indirectly.

15. That the **Sault Ste. Marie Bridge Co.** shall bear 100% of the cost of repairing the Hall Avenue crossing. The project shall pay 100% of the costs at Hall Avenue associated with relocating the existing cantilevered flashing light signal and gate, widening of the existing crossing surface and any adjustments of the existing signals and gates required during construction. The Sault Ste. Marie Bridge Co. shall also pay any cost assessed to it pursuant to §195.60, Stats., for the investigation of this matter by the Office. The railroad shall not pass on those assessment costs either directly or indirectly.

16. That the **Escanaba & Lake Superior Railroad Co.** shall repair and maintain (at its own cost) the crossing at-grade of **Marinette Avenue (USH 41)** with its tracks in accordance with the design plans of the Wisconsin Department of Transportation and the City of Marinette in the City of Marinette, Marinette County between **April 18, 2005 and April 24, 2005**. (Crossing No. 388 578R / MP 267.94)

17. That jurisdiction is retained.

Dated at Madison, Wisconsin, _____.

By the Office of the Commissioner of Railroads.

Rodney W. Kreunen
Commissioner of Railroads

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